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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,988	07/23/2001	Shigeru Tanaka	Q64671	1372

7590

03/10/2005

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EXAMINER
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PRONE, JASON D

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/909,988

Applicant(s)

TANAKA ET AL. ED

Examiner

Jason Prone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7,8,10,11,13-21 and 23-26 is/are pending in the application.
- 4a) Of the above claim(s) 4,5,11 and 13-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,7,8,10,23 and 24 is/are rejected.
- 7) ☒ Claim(s) 25 and 26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 7, 10, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wakai et al. in view of Kiyohara et al. Wakai et al. discloses the invention including an apparatus of estimating a lifetime of a cutter (Abstract), a detector for detecting a value of a current loaded on the motor, a comparator (62), an output element (Column 3 third paragraph), that the comparator determines if the cutter is unfit for use (Column 3 third paragraph), that the comparator is in a microcomputer (18), and a motor driving the cutter (22). The examiner notes that current is measured in amps and an ammeter is used to measure amps therefore it is inherent that an ammeter would be present. The Wakai et al. patent fails to disclose a fixed blade, a movable blade that is movable along the fixed blade, a receiving element that is movable together with the movable blade, a support for supporting the movable blade and a support for supporting the receiving element, and that the supports are intergral with one another. Kiyohara et al. teaches a fixed blade (94), a movable blade that is movable along the fixed blade (42), a receiving element that is movable together with the movable blade (82), a support for supporting the movable blade (80) and a support for supporting the receiving element (80), and that the supports are intergral with one

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another (Fig. 7). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Wakai et al. with the cutting apparatus, as taught by Kiyohara et al., to allow for the cutting of a flexible web.

3. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wakai et al. in view of Kiyohara et al. as applied to claim 1 above. Wakai et al. and Kiyohara et al. disclose the invention but fail to disclose the use of a visual display, however, official notice is taken that the use of an output element comprising a visual display is old and well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided Wakai et al. in view of Kiyohara et al. with an output element comprising a visual display for an easier way of seeing the output element.

#### ***Allowable Subject Matter***

4. Claims 25 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

5. Applicant's arguments filed 29 November 2004 have been fully considered but they are not persuasive. It would have been obvious to one of ordinary skill in the art to modify the cutting apparatus of the Wakai et al. patent to incorporate the structure of the old and well-known cutting apparatus taught by the Kiyohara et al. patent to better cut a specific type of work piece. Also the tool detection system disclosed in Wakai et al. is perfectly capable of performing its intended function in an environment of less wear.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is 571-272-4513. The examiner can normally be reached on 7:30-5:00, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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March 7, 2005



Allan N. Shoap  
Supervisory Patent Examiner  
Group 3700